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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,217	08/14/2003	Charles P. Simpson JR.	29953-2094611	3459

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VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP  
P.O. BOX 34385  
WASHINGTON, DC 20043-9998

EXAMINER

WEAVER, SUE A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8N

<b>Office Action Summary</b>	Application No. 10/643,217	Applicant(s) SIMPSON ET AL.	
	Examiner Sue A. Weaver	Art Unit 3727	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 6-10 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/14/03</u> . | 6) <input type="checkbox"/> Other: ____  |

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1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The title does not reflect the hot fill container or the neck finish with the bail handle, as claimed.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 and thus 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It isn't clear what applicants intend to claim with the channel structure at the end of claim 6. It is noted that applicants merely set forth sidewalls with hot fill panels adjacent the front wall. How is the channel on the front wall being arranged such that it extends between the hot fill panels if there is only one on each sidewall? Are applicants claiming that the channel runs from a hot fill panel on one side to the hot fill panel on the other side?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finley et al '484 in view of Wilde.

Note that Finley et al teach a rectangular blow molded container with a finish which includes a thread (20) below and opening, a bead (22) below the thread and a pair of spaced apart flanges (24) as shown in Figure 3. The bead for cooperating with a tamper indicating means is considered to be no more than a statement of intended use. However Wilde teach the provision of such a bead below a thread and above a flange and to have used the bead of Finley in such a manner to provide a safe container would have been most obvious to one having ordinary skill in the art.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilde in view of Borg and Reyes.

Wilde as mentioned above teaches a container finish with a bead or flange at L below a thread (T). A larger flange is provided at H which defines the normal support ring on a plastic container. To have provided the container with a bail handle having a ring and tabs (18) as taught by Borg which is secured below the lower ring as taught by Reyes for ease of carrying the container would have been most obvious to one having ordinary skill in the art.

4. Claim 6 insofar as it is understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al '920 in view of Ogg et al '282, both cited by applicants, and Silvers et al '701.

Lane et al are considered to teach hot fill containers which include a finish with a shoulder above a body construction and a base structure below the body. The body includes a front wall (22) with channels (52), a rear wall (24) with channels (52) and a pair of sidewalls between the front and rear walls. Note that the

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sidewalls have grip recesses adjacent the rear wall at 28 and hot fill panels adjacent the front wall at (42). Lane et al also teach upper and lower peripheral channels at (54) as claimed. While it is noted that Lane et al do not specifically teach a rectangular container, such are known in the art as taught by Ogg et al. To have optionally made the container of Lane et al with a rectangular body in the manner taught by Ogg et al would have been most obvious. Note that the channel 52 in the front wall of Lane et al extends between members (42) the hot fill panels. Although Lane et al do not teach a particular base structure, to have provided the base with a push up to strengthen the base would have been obvious in view of the teaching by either Ota et al or Silvers in hot fill containers. The volume is not specified by Lane et al but the selection of 1 gallon is considered to be a matter of choice dependent on the intended use for the container.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above, and further in view of Finley et al '484.

To have formed the neck of Lane et al in the manner taught by Finley et al to prevent leakage, would have been obvious to one having ordinary skill in the art.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 above, and further in view of Lyons '936, cited by applicants and Clark.

To have provided corner feet in the recessed base to support the base would have been obvious in view of such teaching by Lyons. To have further provided

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rib or channel in the feet would have been obvious in view of such teaching by Clark at 16.

7. Claims 2, 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Swartwood et al show another bail handle with tabs in the ring. Sasaki et al show a rectangular container with a central push up. Collie shows a container with corner feet. St. Amand shows a rectangular container with front and rear recesses and corner feet. Prevot et al show a hot fill container with sidewalls having grip recesses and hot fill panels. Petre et al show containers with reinforcing ribs in the base.

9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Typed or printed name of person signing this certificate:

\_\_\_\_\_

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### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is 517 272-4548. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW

*Sue A. Weaver*  
Sue A. Weaver  
Patent Examiner